

# Traffic Safety Facts Laws

Volume 1

Number 1

May 2003

## Open Container Laws

### Key Facts

Motor vehicle crashes are the leading cause of death for Americans aged 4 through 33 and motor vehicle crash injuries are a major health care problem in the United States. Alcohol-related crashes are a substantial portion of this problem.

- Alcohol involvement remains the leading factor in motor vehicle deaths.
- Impaired driving is the most frequently committed violent crime in the United States.
- While only 7 percent of all police reported crashes involve alcohol use, 41 percent of all fatal crashes involve the use of alcohol.
- Every 30 minutes, someone is killed in the United States in an alcohol-related crash.
- It is estimated that alcohol-related crashes in the United

States cost the public more than \$50 billion yearly.

### Section 154 of 23 U.S.C.

In 1998, as part of the Transportation Equity Act for the 21st Century (TEA-21), Section 154 of 23 U.S.C. established a new Federal program to encourage the States to adopt laws that prohibit either the possession of an open container of an alcoholic beverage or the consumption of any alcoholic beverage in the passenger area of a motor vehicle.

Referred to as "open container laws," Federal law now requires that States have such a law. If a State does not have an open container law, a portion of that State's Federal-aid highway construction funds will be redirected to the State's Section 402 highway safety program to be used for alcohol-impaired driving countermeasures or for enforcement of anti-drunk driving laws. Alternatively, the State may elect to use these funds for the State's hazard elimination program, under Section 152.

To comply with Section 154, a State's open container law must:

- Prohibit both possession of any open alcoholic beverage container and consumption of any alcoholic beverage;

- Cover the passenger area of any motor vehicle, including unlocked glove compartments and any other areas of the vehicle that are readily accessible to the driver or passengers while in their seats;
- Apply to all open alcoholic beverage containers and all alcoholic beverages, including beer, wine, and spirits that contain one-half of one percent or more of alcohol by volume (including 3.2 percent beer);
- Apply to all vehicle occupants except for passengers of vehicles designed, maintained or used primarily for the transportation of people for compensation (such as buses, taxi cabs, and limousines) or the living quarters of motor homes;
- Apply to vehicles on a public highway or the right-of-way (i.e. on the shoulder) of a public highway; and
- Require primary enforcement of the law, rather than requiring probable cause that another violation had been committed before allowing enforcement of the open container law.

To avoid the transfer of funds, States must certify that its open container law complies with the above elements, that the law is in effect, and that the State is enforcing the law.

### Inside This Issue

- Key Facts
- Open Container
- Section 154 of the TEA-21 Restoration Act

---


The redirection amount for States not in compliance is 1.5 percent of certain State Federal-aid highway construction funds for fiscal years 2001 and 2002 and 3 percent for fiscal year 2003 and later.

Currently, 36 States and the District of Columbia comply with the terms of this law. These States are: Alabama, Arizona, California, Florida, Georgia, Hawaii, Idaho, Illinois, Iowa, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oregon, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Texas, Utah, Vermont, Washington, and Wisconsin.



U.S. Department  
of Transportation  
**National Highway  
Traffic Safety  
Administration**

**NHTSA**  
**People Saving People**  
[www.nhtsa.dot.gov](http://www.nhtsa.dot.gov)



These reports and additional information are available from your State Highway Safety Office, the NHTSA Regional Office serving your State, or from NHTSA Headquarters, Office of Safety Programs, ATTN: NTI-120, 400 Seventh Street, S.W., Washington, DC 20590; 202-366-4295; or NHTSA's web site at [www.nhtsa.dot.gov](http://www.nhtsa.dot.gov)